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VIA FEDERAL EXPRESS

Craig Whitenack
Civil Investigator
United States Environmental Protection Agency
Region IX, Southern California Field Office
600 Wilshire Avenue, Suite 1420
Los Angeles, California 90017

**Re: Request for Information Pursuant to Section 104(e) of CERCLA for the
Yosemite Creek Superfund Site, San Francisco, CA**

Dear Mr. Whitenack:

This firm represents Eureka Chemical Company ("Eureka"). This letter responds to the **October 15, 2009** request for information ("RFI") of the United States Environmental Protection Agency ("EPA") to Eureka as a purported liable company and as a purported generator with regard to the Yosemite Creek Superfund Site located in San Francisco, California (the "Site"). Eureka understands that it is just one of several entities to whom the RFI was directed. This response is given solely for Eureka and not for any other entity to whom the RFI was directed. Subject to both the general and specific objections noted below, and without waiving these or any other available objection or privilege, Eureka submits the following response to the RFI in accordance with the **January 11, 2010** due date.

In responding to the RFI, Eureka has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control that may be relevant to this matter. That said, the RFI purports to seek a great deal of information and documents not relevant to the Site or the alleged contamination at the Site. As a result, Eureka's review has not been as complete as requested by the RFI.

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For example, while we understand the basis of the purported connection between Eureka and the former Bay Area Drum State Superfund Site at 1212 Thomas Avenue in San Francisco, California (the "BAD Site"), certain RFI questions seek information regarding facilities other than the BAD Site, including *all* facilities in California and *all* facilities outside California that shipped drums or other containers to *any* location in the entire state of California. These other facilities throughout California and the United States have no nexus to the Site. Because such questions are not relevant to the Site, they are beyond the scope of EPA's authority as set forth in Section 104(e)(2)(A) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") (EPA may request information "relevant to . . . [t]he identification, nature, and quantity of materials which have been . . . transported to a . . . facility").

The RFI also defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, dichlorodiphenyltrichloroethane ("DDT"), chlordane, dieldrin, and polychlorinated biphenyls ("PCBs")." However, certain RFI requests also seek information regarding hazardous substances more broadly. These requests go beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and are not relevant to the Site pursuant to Section 104(e)(2)(A) of CERCLA. As such, Eureka has limited its review of documents and information to the COCs identified by EPA.

Further, as you know, the California Department of Toxic Substances Control ("DTSC") conducted an extensive investigation of the BAD Site and Eureka's operations in relation to it. DTSC's investigation included an information request to Eureka dated **August 31, 1992** and the DTSC files include Eureka's Response to the information request dated **September 28, 1992**. For convenience, a copy of Eureka's response to the DTSC information request is enclosed herewith.

Finally, we understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Thus, the focus of Eureka's identification, review and retrieval of documents has been upon data not previously provided to EPA, DTSC or any other governmental agency relevant to the Site.

GENERAL OBJECTIONS

Eureka asserts the following general privileges, protections and objections with respect to the RFI and each information request therein.

1. Eureka asserts all privileges and protections it has in regard to the documents and other information sought by EPA, including the attorney-client privilege, the attorney work product doctrine, all privileges and protections related to materials generated in anticipation of litigation, the settlement communication protection, the confidential business information ("CBI") and trade secret protections, and any other privilege or protection available to it under law. In the event that a privileged or protected document has been inadvertently included among the

documents produced in response to the RFI, Eureka asks that any such document be returned to Eureka immediately and here states for the record that it is not thereby waiving any available privilege or protection as to any such document.

2. In the event that a document containing CBI or trade secrets has been inadvertently included among the numerous documents provided in response to the RFI, Eureka asks that any such documents be returned to Eureka immediately so that Eureka may resubmit the document in accordance with the applicable requirements for the submission of Confidential Information.
3. Eureka objects to any requirement to produce documents or information already in the possession of a government agency, including but not limited to DTSC, or already in the public domain. As noted above, DTSC conducted an extensive investigation of the BAD Site and Eureka's operations in relation to it. DTSC's investigation included an information request to Eureka and the DTSC files include Eureka's Response to DTSC's information request. For convenience, a copy of Eureka's response to DTSC's information request is enclosed herewith. EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Notwithstanding this objection, and without waiving it, Eureka may produce certain information or documents in its possession, custody, or control that it previously provided to or obtained from government agencies that contain information responsive to the RFI.
4. Eureka objects to Instruction 4 to the extent it seeks to require Eureka, if information responsive to the RFI is not in its possession, custody, or control, to identify any and all persons from whom such information "may be obtained." Eureka is aware of no obligation that it has under Section 104(e) of CERCLA to identify all other persons who may have information responsive to EPA information requests and is not otherwise in a position to identify all such persons who may have such information.
5. Eureka objects to Instruction 5 on the ground that EPA has no authority to impose a continuing obligation on Eureka to supplement these responses. Eureka will, of course, comply with any lawful future requests that are within EPA's authority.
6. Eureka objects to Instruction 6 in that it purports to require Eureka to seek and collect information and documents in the possession, custody or control of individuals not within the custody or control of Eureka. EPA lacks the authority to require Eureka to seek information not in its possession, custody or control.
7. Eureka objects to the definition of "document" or "documents" in Definition 3 to the extent it extends to documents not in Eureka's possession, custody, or control. Eureka disclaims any responsibility to search for, locate, and provide EPA copies of any documents "known by you to exist" that are not in Eureka's possession, custody, or control.

8. Eureka objects to the definition of "Facility" or "Facilities" in Definition 4 because the terms are overbroad to the extent that they extend to facilities with no connection to either the Site or the BAD Site. Moreover, the term "Facilities" as defined is confusing and unintelligible as the term is defined as having separate meanings in Definition 4 and Request No. 3.

9. Eureka objects to the definition of "identify" in Definition 7 to the extent that the definition encompasses home addresses of natural persons. Subject to this objection, current Eureka employees and any other natural persons are identified by name and corporate address. Eureka requests that any contacts with Eureka employees identified in these responses or the related documents be initiated by contacting the below signed at the address provided above.

10. Eureka objects to the definition of "Respondent", "you" or "the company" or "your" or "your company" in Definition 14 because the terms are overbroad and it is not possible for Eureka to answer questions on behalf of all of the persons and entities identified therein. Notwithstanding this objection, and without waiving it, Eureka has undertaken a diligent and good faith effort to locate and furnish information and documents in its possession, custody, and control responsive to the RFI.

11. Eureka objects to EPA's requests that it provide separately information that is contained in documents being furnished in response to the RFI. Where documents have been provided in connection with a response, information sought by EPA in the corresponding request for information that is set forth in those documents is not furnished separately. To do otherwise would be unduly burdensome.

Without waiving any of the foregoing responses and objections, and incorporating each of the foregoing responses and objections, Eureka provides the following response to the RFI.

RESPONSES TO OCTOBER 15, 2009 EPA INFORMATION REQUESTS

1. *Describe generally the nature of the business conducted by Respondent and identify the products manufactured, formulated, or prepared by Respondent throughout its history of operations.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Without waiving these objections and in a good faith attempt at responding, Eureka provides the following information.

During the 1940's when the United States Navy needed to address costs and delays of rust and corrosion in its combat and support vessels, the founder of Eureka Chemical Company, Dr. Hess, formulated a product that successfully combated rust and corrosion using a natural ingredient, lanolin (wool wax). The product, trademark registered as Fluid Film, was used extensively by the United States Navy during and after World War II. Eureka was incorporated in 1953. Today, Fluid Film is used on NASA's Space Shuttle, in the transportation industry, by governments, and by manufacturers of numerous commercial products. Eureka continues to be a family-owned business. Fluid Film products are solvent free, non-toxic, and not hazardous. The lack of solvents in Fluid Film sets it apart from competing products. Fluid Film is sold in four formulations: 1) Gel; 2) Liquid; 3) Aerosol; and 4) Non-Aerosol (Hand-Pump).

2. *Provide the name (or other identifier) and address of any facilities where Respondent carried out operations between 1940 and 1988 (the "Relevant Time Period") and that:*

- a. *ever shipped drums or other containers to the BAD Site for recycling, cleaning, reuse, disposal, or sale.*
- b. *are/were located in California (excluding locations where ONLY clerical/office work was performed);*
- c. *are/were located outside of California and shipped any drums or other containers to California for recycling, cleaning, reuse, disposal, or sale (for drums and containers that were shipped to California for sale, include in your response only transactions where the drums and containers themselves were an object of the sale, not transactions where the sole object of the sale was useful product contained in a drum or other container).*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, in addition to facilities with a connection to the BAD Site, Request No. 2 purports to also seek information regarding *any* facility located in California (excluding locations where ONLY clerical/office work was performed) and *any* facility located outside of California that shipped drums or other containers to *any* location in California, even to locations other than the BAD Site. These other facilities have no nexus with the BAD Site, and thus this request seeks information that is not relevant to the Site.

Notwithstanding the foregoing, and without waiving any of its objections, Eureka is providing EPA with information related to Eureka's operations in relation to the BAD Site.

In the 1940's and 1950's, Eureka was located at **321 Fremont Street, San Francisco** and **41 Sheridan Street, San Francisco**. In or about the 1960's, Eureka moved to its current location at **234 Lawrence Avenue, South San Francisco, CA 94080**. Eureka is unable to provide more detail in response to RFI No. 2 than what was contained in its response to DTSC's **August 31, 1992** inquiry, which itself was limited because records of drum purchases by BAD were destroyed by fire in **1968**. In general, from time to time during its history, BAD solicited the purchase of used drums from Eureka. When BAD determined that a sufficient number of drums had accumulated at Eureka to justify a trip to purchase them, BAD sent a truck to Eureka, purchased the drums, and removed them. These practices occurred during administration of the company by Mr. Stanton's predecessors, Paul Hess who died in **1989** and his wife, Rae Hess, who died in **May of 1991**. As both Mr. and Mrs. Hess had passed away prior to the time when DTSC made its inquiry in **1992** and Eureka's records having been destroyed by fire in **1968**, at the time Eureka provided its response to DTSC, Mr. Stanton did not have personal knowledge of the numbers of drums purchased by BAD and could not provide any additional detail. With Mr. Stanton having passed away on **October 8, 2008**, Eureka is further hampered in its ability to provide detail.

With respect to the drums purchased by BAD from Eureka, each originally contained lanolin (wool wax), a non-toxic, non-hazardous substance. Mr. Stanton estimated that at most, one to two pounds of crude lanolin remained inside the drums when purchased by BAD. Since lanolin is a key and expensive ingredient of Eureka's product, significant efforts were made by Eureka to remove as much lanolin as possible before BAD was permitted to purchase the drums. At no time did Eureka "send" any drums to the BAD site. Instead, BAD solicited purchase of the drums, acquired them and used them for their own purposes.

3. *Provide a brief description of the nature of Respondent's operations at each Facility identified in your response to Question 2 (the "Facilities") including:*

- a. *the date such operations commenced and concluded; and*
- b. *the types of work performed at each location over time, including but not limited to the industrial, chemical, or institutional processes undertaken at each location.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In particular, but without limiting the generality of the foregoing objection, Eureka objects to the request in (b) that it describe "types of work performed at each location over time . . ." Without an identification by EPA of the types of work it is referring to, it would be virtually impossible to describe each and every type of work that was performed. To the extent EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Eureka is providing EPA with information related to Eureka's operations in relation to the BAD Site. Eureka directs EPA to and incorporates by this reference its response to RFI No. 2. With regard to the nature of Eureka's operations, since the 1940's, Eureka has engaged in the formulation, manufacture, production and sale of Fluid Film.

4. *For each Facility, describe the types of records regarding the storage, production, purchasing, and use of Substances of Interest ("SOI") during the Relevant Time Period that still exist and the periods of time covered by each type of record.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome to the extent it seeks to require Eureka to describe "types of records." Where documents have been provided in response to this RFI, each and every document regarding SOIs is not also "identified" by describing its contents.

Eureka further objects to Request No. 4 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus Eureka has limited its review of documents and information to the COCs identified by EPA.

Notwithstanding the foregoing, and without any waiver of its objections, Eureka is providing EPA with information related to Eureka's operations in relation to the BAD Site. Eureka directs EPA to and incorporates by this reference its response to RFI No. 2. As stated in response to RFI No. 2, Eureka does not have any such records. Further, to the best of Eureka's limited knowledge and belief, at no time during the 1940's through 1988 was lead, zinc, mercury, ddt, chlordane, dieldrin, pcb's or hydraulic oil or transformer oil stored, produced, purchased or used at the Facility.

5. *Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store one of the COCs (including any substances or wastes containing the COCs) at any of the Facilities? State the factual basis for your response.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between COCs at Eureka's Facility and the BAD Site, Request No. 5 purports to seek information relating to Eureka's Facility that is not relevant to contamination at the Site. Without waiver of its objections, Eureka is providing EPA with information related to Eureka's operations in relation to the BAD Site. Eureka directs EPA to

and incorporates by this reference its response to RFI No. 2. The response to RFI No. 5 is "No." Further, to the best of Eureka's limited knowledge and belief, at no time during the 1940's through 1988 was lead, zinc, mercury, ddt, cholrdane, dieldrin, pcb's or hydraulic oil or transformer oil stored, produced, purchased or used at the Facility.

6. *If the answer to Question 5 is yes, identify each COC produced, purchased, used, or stored at each Facility.*

RESPONSE:

Not applicable.

7. *If the answer to Question 5 is yes, identify the time period during which each COC was produced, purchased, used, or stored at each Facility.*

RESPONSE:

Not applicable.

8. *If the answer to Question 5 is yes, identify the average annual quantity of each COC produced, purchased, used, or stored at each Facility.*

RESPONSE:

Not applicable.

9. *If the answer to Question 5 is yes, identify the volume of each COC disposed by the Facility annually and describe the method and location of disposal.*

RESPONSE:

Not applicable.

10. *Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store hydraulic oil or transformer oil at any of the Facilities? State the factual basis for your response to this question.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between hydraulic fuel or transformer oil at Eureka Facility and the BAD Site, Request No. 10 purports to seek information relating to Eureka's Facility that is not relevant to contamination at the Site. Without waiver of its

objections, Eureka is providing EPA with information related to Eureka's operations in relation to the BAD Site. Eureka directs EPA to and incorporates by this reference its response to RFI No. 2. The response to RFI No. 10 is "No." Further, to the best of Eureka's limited knowledge and belief, at no time during the 1940's through 1988 was lead, zinc, mercury, ddt, cholrdane, dieldrin, pcb's or hydraulic oil or transformer oil stored, produced, purchase or used at the Facility.

11. *If the answer to Question 10 is yes, identify each specific type of hydraulic oil and transformer oil produced, purchased, used, or stored at each Facility.*

RESPONSE:

Not applicable.

12. *If the answer to Question 10 is yes, identify the time period during which each type of hydraulic oil and transformer oil was produced, purchased, used, or stored.*

RESPONSE:

Not applicable.

13. *If the answer to Question 10 is yes, identify the average annual quantity of each type hydraulic oil and transformer oil purchased, produced, used, or stored at each Facility.*

RESPONSE:

Not applicable.

14. *If the answer to Question 10 is yes, identify the volume of each hydraulic oil and transformer oil disposed by the Facility annually and describe the method and location of disposal.*

RESPONSE:

Not applicable.

15. *Provide the following information for each SOI (SOIs include any substance or waste containing the SOI) identified in your responses to Questions 5 and 10:*

- a. *Describe briefly the purpose for which each SOI was used at the Facility. If there was more than one use, describe each use and the time period for each use;*
- b. *Identify the supplier(s) of the SOIs and the time period during which they supplied the SOIs, and provide copies of all contracts, service orders, shipping*

manifests, invoices, receipts, canceled checks and other documents pertaining to the procurement of the SOI;

- c. State whether the SOIs were delivered to the Facility in bulk or in closed containers, and describe any changes in the method of delivery over time;*
- d. Describe how, where, when, and by whom the containers used to store the SOIs (or in which the SOIs were purchased) were cleaned, removed from the Facility, and/or disposed of, and describe any changes in cleaning, removal, or disposal practices over time.*

RESPONSE:

Not applicable.

16. *For each SOI delivered to the Facilities in closed containers, describe the containers, including but not limited to:*

- a. the type of container (e.g. 55 gal. drum, tote, etc.);*
- b. whether the containers were new or used; and*
- c. if the containers were used, a description of the prior use of the container.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 16 purports to seek information relating to Eureka's Facility that is not relevant to contamination at the Site. Notwithstanding the foregoing, and without any waiver of its objections, Eureka is providing EPA with information related to Eureka's operations in relation to the BAD Site. Eureka directs EPA to and incorporates by this reference its response to RFI No. 2. Further, to the best of Eureka's limited knowledge and belief, at no time during the 1940's through 1988 was lead, zinc, mercury, ddt, cholrdane, dieldrin, pcb's or hydraulic oil or transformer oil delivered, stored, produced, purchased or used at the Facility. Finally, as to drums purchased by Eureka for its business operations, they were always new, not used.

17. *For each container that Respondent used to store a SOI or in which SOIs were purchased ("Substance-Holding Containers" or "SHCs") that was later removed from the Facility, provide a complete description of where the SHCs were sent and the circumstances under which the SHCs were removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Eureka further objects to Request No. 17 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums that were purchased by BAD from Eureka were fungible commodities and not individually tagged or tracked. Accordingly, Request No. 17 purports to seek information that does not exist.

Eureka further objects to Request No. 17 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus Eureka has limited its review of documents and information to the COCs identified by EPA.

Additionally, as stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 17 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Eureka is providing EPA with information related to Eureka's operations in relation to the BAD Site. Further, to the best of Eureka's limited knowledge, at no time during the 1940's through 1988 was lead, zinc, mercury, ddt, chlordane, dieldrin, pcb's or hydraulic oil or transformer oil delivered, stored, produced, purchased or used at the Facility.

18. *For each SHC that was removed from the Facility, describe Respondent's contracts, agreements, or other arrangements under which SHCs were removed from the Facility, and identity all parties to each contract, agreement, or other arrangement described. Distinguish between the Relevant Time Period and the time period since 1988.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 18 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Eureka is providing EPA with information related to Eureka's operations in relation to the BAD Site. Further, to the best of Eureka's limited knowledge, at no time during the 1940's through 1988 was lead, zinc, mercury, ddt, cholrdane, dieldrin, pcb's or hydraulic oil or transformer oil delivered, stored, produced, purchased or used at the Facility.

19. *For each SHC, provide a complete explanation regarding the ownership of the SHC prior to delivery, while onsite, and after it was removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Eureka further objects to Request No. 19 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 19 purports to seek information that does not exist. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 18 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. Further, to the best of Eureka's limited knowledge, at no time during the 1940's through 1988 was lead, zinc, mercury, ddt, cholrdane, dieldrin, pcb's or hydraulic oil or transformer oil delivered, stored, produced, purchased or used at the Facility.

20. *Identify all individuals who currently have, and those who have had, responsibility for procurement of Materials at the Facilities. Also provide each individual's job title, duties, dates performing those duties, current position or the date of the individual's resignation, and the nature of the information possessed by each individual concerning Respondent's procurement of Materials.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 20 purports to seek information relating to Eureka's Facilities that is not relevant to contamination at the Site. Eureka further objects to Request No. 20 as it purports to seek information regarding procurement of "Materials" at facilities other than the BAD Site and thus goes beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment. Further, to the best of Eureka's limited knowledge and

belief, at no time during the 1940's through 1988 was lead, zinc, mercury, ddt, cholrdane, dieldrin, pcb's or hydraulic oil or transformer oil delivered, stored, produced, purchased or used at the Facility.

21. *Describe how each type of waste containing any SOIs was collected and stored at the Facilities prior to disposal/recycling/sale/transport, including:*

- a. *the type of container in which each type of waste was placed/stored;*
- b. *how frequently each type of waste was removed from the Facility; Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 21 purports to seek information regarding collection and storage of "any SOIs" at facilities other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. Further, to the best of Eureka's limited knowledge and belief, at no time during the 1940's through 1988 was any lead, zinc, mercury, ddt, cholrdane, dieldrin, pcb's or hydraulic oil or transformer oil delivered, stored, produced, purchased or used at the Facility.

22. *Describe the containers used to remove each type of waste containing any SOIs from the Facilities, including but not limited to:*

- a. *the type of container (e.g. 55 gal. drum, dumpster, etc.);*
- b. *the colors of the containers;*
- c. *any distinctive stripes or other markings on those containers;*
- d. *any labels or writing on those containers (including the content of those labels);*
- e. *whether those containers were new or used; and*
- f. *if those containers were used, a description of the prior use of the container;*

Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Eureka further objects to Request No. 22 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 22 purports to seek information that does not exist.

As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Eureka further objects to Request No. 22 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Eureka has limited its review of documents and information to the COCs identified by EPA. Additionally, Eureka objects to Request No. 22 as it purports to seek information regarding containers used to remove each type of waste containing any SOIs from the Facilities and taken to *any* other place during *any* time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Eureka directs EPA to and incorporates by this reference its response to RFI No. 2. As stated in response to RFI No. 2, Eureka did not deliver any SOI to the Facilities in containers or otherwise. The containers that were purchased by BAD from Eureka were 55 gallon drums that previously contained lanolin. Further, to the best of Eureka's limited knowledge and belief, at no time during the 1940's through 1988 was lead, zinc, mercury, ddt, chlordane, dieldrin, pcb's or hydraulic oil or transformer oil delivered, stored, produced, purchased or used at the Facility.

23. *For each type of waste generated at the Facilities that contained any of the SOIs, describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling and identify all parties to each contract, agreement, or other arrangement described. State the ownership of waste containers as specified under each contract, agreement, or other arrangement described and the ultimate destination or use for such containers. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Eureka further objects to Request No. 23 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Eureka has limited its review of documents and information to the COCs identified by EPA. Additionally, Eureka objects to Request No. 23 as it purports to seek information regarding waste generated at any Facilities that contained any SOIs and taken to *any* other place during *any* time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. Further, to the best of Eureka's limited knowledge, at no time during the 1940's through 1988 was lead, zinc, mercury, ddt, chlordane, dieldrin, pcb's or hydraulic oil or transformer oil delivered, stored, produced, purchased or used at the Facility.

24. *Identify all individuals who currently have, and those who have had, responsibility for Respondent's environmental matters (including responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes and SHCs). Provide the job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all individuals who currently have, and those who have had, responsibility for Eureka's environmental matters at all of Eureka's Facilities, including those that have no nexus to the BAD Site, is not feasible. As detailed above, records were destroyed by fire in 1968, Paul Hess died in [Privacy Act] Rae Hess died in [Privacy Act] and Thomas Stanton died on [Privacy Act] [Privacy Act] Further, to the best of Eureka's limited knowledge and belief, at no time during the 1940's through 1988 was lead, zinc, mercury, ddt, chlordane, dieldrin, pcb's or hydraulic oil or transformer oil delivered, stored, produced, purchased or used at the Facility. The person responsible for Eureka's environmental matters is Eureka's chemist, Dr. Quinn. Ann Stanton, daughter of Paul and Rae Hess and surviving spouse of Thomas Stanton, has some historic information and is the owner of Eureka.

25. *Did Respondent ever purchase drums or other containers from a drum recycler or drum reconditioner? If yes, identify the entities or individuals from which Respondent acquired such drums or containers.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all drum recyclers or drum reconditioners from which Eureka has ever acquired such drums or containers is not feasible. As detailed above, records were destroyed by fire in 1968, Paul Hess died in [Privacy Act] Rae Hess died in [Privacy Act], and Thomas Stanton died on [Privacy Act] [Privacy Act]. To the best of Eureka's limited knowledge and belief, Eureka did not purchase drums or other containers from drum recyclers or drum reconditioners but always purchases their drums new.

26. *Prior to 1988, did Respondent always keep its waste streams that contained SOIs separate from its other waste streams?*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Eureka further objects to Request No. 26 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Eureka has limited its review of documents and information to the COCs identified by EPA. Eureka has no additional knowledge or information than as provided above. As detailed above, records were destroyed by fire in 1968, Paul Hess died in [Privacy Act] Rae Hess died in [Privacy Act] and Thomas Stanton died on [Privacy Act]. To the best of Eureka's limited knowledge and belief, Eureka did not have waste streams containing SOIs or otherwise.

27. *Identify all removal and remedial actions conducted pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or comparable state law; all corrective actions conducted pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; and all cleanups conducted pursuant to the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. where (a) one of the COCs was addressed by the cleanup and (b) at which Respondent paid a portion of cleanup costs or performed work. Provide copies of all correspondence between Respondent and any federal or state government agency that (a) identifies a COC and (b) is related to one of the above-mentioned sites.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 27 purports to seek information regarding a broad range of removal and remedial actions, corrective actions and cleanups. To the extent that

EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. Eureka further objects to Request No. 27 to the extent that EPA is already in possession of the requested documents, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Eureka has no additional knowledge or information than as provided above. As detailed above, records were destroyed by fire in 1968, Paul Hess died in [Privacy Act] Rae Hess died in [Privacy Act] and Thomas Stanton died on [Privacy Act]. To the best of Eureka's limited knowledge and belief, other than it's tangential involvement with the DTSC proceeding with respect to the BAD site, it has not been involved in any removal and/or remediation effort involving the identified chemicals or otherwise.

28. *Provide all records of communication between Respondent and Bay Area Drum Company, Inc.; Meyers Drum Company; A.W. Sorich Bucket and Drum Company; Waymire Drum Company, Inc.; Waymire Drum and Barrel Company, Inc.; Bedini Barrels Inc.; Bedini Steel Drum Corp.; Bedini Drum; or any other person or entity that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. DTSC conducted an extensive investigation of the BAD Site and Eureka's operations in relation to it. DTSC's files include extensive records concerning the Bay Area Drum Company, Inc. and other persons and entities that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California. Eureka understands that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Eureka has no additional knowledge, or information than as provided above and does not have any documents between itself and BAD or any other named company.

29. *Identify the time periods regarding which Respondent does not have any records regarding the SOIs that were produced, purchased, used, or stored at the Facilities.*

RESPONSE:

In addition to the General Objections set forth above, Eureka objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In responding to the RFI, Eureka has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. Moreover, Eureka understands that EPA is already in possession of DTSC's files regarding the BAD Site. Eureka is under no further obligation to identify time periods to which these documents do not pertain. Eureka has no additional knowledge or information than as provided above. To the best of Eureka's limited knowledge, at no time during the 1940's through 1988 was lead, zinc, mercury, ddt, cholrdane, dieldrin, pcb's or hydraulic oil or transformer oil

delivered, stored, produced, purchased or used at the Facility, and as such, even though the documents pertaining to drums purchased by BAD were destroyed in the fire in 1968, the documents would not have shown any delivery, storage, production, purchase or use of the identified SOI's at the Facility.

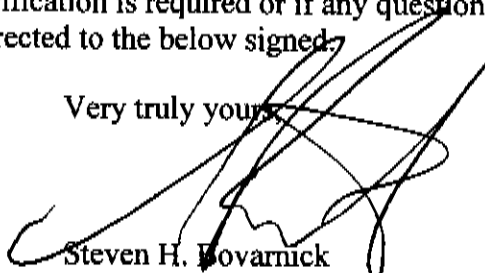
30. *Provide copies of all documents containing information responsive to the previous twenty-nine questions and identify the questions to which each document is responsive.*

RESPONSE:

Eureka objects to Request No. 30 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Eureka has limited its review of documents and information to the COCs identified by EPA. Eureka further objects to Request No. 30 as it purports to seek copies of documents containing information responsive to the previous twenty-nine questions. DTSC conducted an extensive investigation of the BAD Site and Eureka's operations in relation to it. DTSC's investigation included an information request to Eureka and the DTSC files include Eureka's Response to DTSC's information request, among other documents. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. For convenience, a copy of Eureka's response to DTSC's information request is enclosed.

Eureka has done its best to respond to the RFI despite the limitations described above. Any omission has been unintentional. If clarification is required or if any questions remain, EPA may have regarding the responses may be directed to the below signed:

Very truly yours,



Steven H. Dovarnick
LELAND, PARACHINI, STEINBERG,
MATZGER & MELNICK, LLP

SHB

Enclosures

CC: Ann Stanton, President
Edward V. Pollack, Esq.

RANKIN, SPROAT & POLLACK

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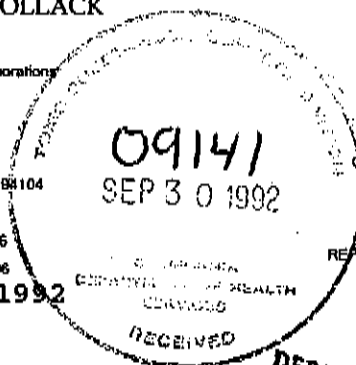
September 28, 1992

PATRICK T. RANKIN (1943-1990)
RONALD G. SPROAT
EDWARD V. POLLACK
GEOFFREY A. MILES
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REPLY TO: SAN FRANCISCO OFFICE



DEPARTMENT OF TOXIC
SUBSTANCES CONTROL
"OFFICIAL FILE COPY"

Ms. Monica Gan
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, CA 94710-2737

Re: Eureka Chemical Company; Our File No. 90009.22

Dear Ms. Gan:

Reference letter of August 31, 1992 from Barbara J. Cook to our client, Eureka Chemical Company (copy enclosed).

What follows are Eureka's responses to queries posed, based upon information given us by the president of Eureka Chemical, D. Thomas Stanton:

1. Based upon the information currently known, Eureka cannot advise with regard to the number of drums purchased by the B.A.D. companies, (collectively referred to hereafter as "B.A.D."). All records were destroyed by fire in 1968. B.A.D. solicited the purchase of Eureka's used drums from time to time. When B.A.D. determined that a sufficient number of drums had accumulated to justify a trip to purchase them, B.A.D. would send a truck, purchase them and remove them. Mr. Stanton advises that these practices occurred during the administration of his predecessors, Mrs. Rae Hess who died in May of 1991 and Mr. Paul Hess who died in 1989. Thus he has no personal knowledge of the numbers involved. After a search of available company records, Mr. Stanton was unable to locate any B.A.D. records for the period requested.

2. Mr. Stanton advises that the only drums acquired from Eureka by B.A.D. were drums which had originally contained crude wool wax, also known as crude lanolin. Eureka's chemists have reviewed the list of substances subject to your and the EPA's jurisdiction and found that crude lanolin does not appear thereon. Our understanding is that crude lanolin is a nontoxic, nonhazardous substance.

3. Steel 55 gallon drums.

4. Once the drums were purchased and removed by B.A.D., Eureka had no idea as to the disposition of the drums. The drums were purchased by B.A.D. for their purposes, not Eureka's.

Ms. Monica Gan
Re: Eureka Chemical Company
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DEPARTMENT OF TOXIC
SUBSTANCES CONTROL
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5. At the most, Mr. Stanton estimates that one to two pounds of crude lanolin would remain inside the drum. Since crude lanolin is a key and expensive ingredient of Eureka's product, significant efforts were made by Eureka to remove as much lanolin as possible before B.A.D. was permitted to buy the drum.

6. Visual inspection.

7. No drums were "sent" to the site by Eureka. B.A.D. solicited the purchase of the drums, acquired them and used them for their own purposes.

The foregoing is based upon the information currently known to Mr. Stanton and available to him.

In view of the contents of the drums, we do not believe that Eureka can be a PRP since no hazardous or toxic substances were involved.

Please contact the undersigned should you have further questions.

Very truly yours,
RANKIN, SPROAT & POLLACK

By 
Edward V. Pollack

cc: Client